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Legislative History – Montana Session Law

Chapter: 223 Session L: 2007

Bill Number: SB 414

Checklist of Bill History

History and Final Status Sheet	☒
Introduced Bill	☒
Fiscal Note	☐
Third Reading Bill	☐
Final Version of Bill	☐

House

Committee: Transportation

Hearing Date(s): 3/30/2007

Committee Report: 3/30/2007

Senate

Committee: Highways & Transportation

Hearing Date(s): 2/8/2007

Committee Report: 2/8/2007

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: SK Marshall

Date: August 5, 2025

Notes: Audio/Video recordings can be found here:

<https://sg001-harmony.sliq.net/00309/Harmony/en>

Thank you!



AN ACT CLARIFYING THAT THE LAWS GOVERNING MOTOR CARRIERS DO NOT APPLY TO THE TRANSPORTATION OF HOUSEHOLD GOODS AND GARBAGE IN THE COMMERCIAL AREAS OF A CITY, TOWN, OR VILLAGE WITH A POPULATION OF LESS THAN 500 PERSONS; AND AMENDING SECTION 69-12-102, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-12-102, MCA, is amended to read:

"69-12-102. Scope of chapter -- exemptions. (1) This chapter does not affect:

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(b) the transportation by means of motor vehicles in the regular course of business of employees by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees in construction and production is concerned;

(c) the transportation of household goods and garbage by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas of a city, town, or village with a population of less than 500 persons, as determined by the commission;

(d) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

(e) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

(f) ambulances;

(g) the transportation by motor vehicle of not more than 15 passengers between their places of residence or termini near their residences and their places of employment in a single daily round trip if the driver is also going to or from the driver's place of employment;

(h) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2;

- (ii) a municipal bus service pursuant to Title 7, chapter 14, part 44; or
 - (iii) any public transportation system recognized by the Montana department of transportation as a federal transit administration provider pursuant to 49 U.S.C. 5311;
 - (i) armored motor vehicles used for the transportation of valuable paintings and other items of unusual value requiring special handling and security;
 - (j) the transportation of household goods or garbage under an agreement between a motor carrier and an office or agency of the United States government; or
 - (k) the transportation of persons provided by private, nonprofit organizations, including those recognized by the Montana department of transportation as federal transit administration providers pursuant to 49 U.S.C. 5310. As used in this subsection, "private, nonprofit organization" means an organization recognized as nonprofit under section 501(c) of the Internal Revenue Code.
- (2) Except for the identification of ownership requirements provided in 69-12-408, this chapter does not affect commercial tow trucks designed and exclusively used in towing wrecked, disabled, or abandoned vehicles or while these tow trucks are rendering assistance to wrecked, disabled, or abandoned vehicles. However, commercial tow truck firms shall file policies of insurance showing coverage required by 61-8-906.
- (3) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

- END -

I hereby certify that the within bill,
SB 0414, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2019.

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 414

INTRODUCED BY LASLOVICH, LEWIS, PARKER, MENDENHALL, MURPHY

AN ACT CLARIFYING THAT THE LAWS GOVERNING MOTOR CARRIERS DO NOT APPLY TO THE TRANSPORTATION OF HOUSEHOLD GOODS AND GARBAGE IN THE COMMERCIAL AREAS OF A CITY, TOWN, OR VILLAGE WITH A POPULATION OF LESS THAN 500 PERSONS; AND AMENDING SECTION 69-12-102, MCA.

Exported Data

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
04/17/07	Chapter Number Assigned				
04/17/07	(S) Signed by Governor				
04/13/07	(S) Transmitted to Governor				
04/13/07	(H) Signed by Speaker				
04/11/07	(S) Signed by President				
04/11/07	(S) Returned from Enrolling				
04/10/07	(C) Printed - New Version Available				
04/10/07	(S) Sent to Enrolling				
04/04/07	(H) Returned to Senate				
04/04/07	(H) 3rd Reading Concurred		96	1	
04/04/07	(C) Printed - New Version Available				
04/04/07	(H) Scheduled for 3rd Reading				
04/03/07	(H) 2nd Reading Concurred		94	0	
04/03/07	(H) Scheduled for 2nd Reading				
03/30/07	(H) Committee Report--Bill Concurred	(H) Transportation			
03/30/07	(H) Committee Executive Action--Bill Concurred	(H) Transportation	10	0	
03/30/07	(H) Hearing	(H) Transportation			
03/16/07	(H) Referred to Committee	(H) Transportation			
03/16/07	(H) First Reading				
02/12/07	(S) Transmitted to House				
02/12/07	(S) 3rd Reading Passed		45	5	
02/12/07	(S) Scheduled for 3rd Reading				
02/10/07	(S) 2nd Reading Passed		40	9	
02/10/07	(S) Scheduled for 2nd Reading				
02/09/07	(S) Committee Report--Bill Passed	(S) Highways and Transportation			
02/09/07	(S) Committee Executive Action--Bill Passed	(S) Highways and Transportation	9	0	
02/08/07	(S) Hearing	(S) Highways and Transportation			
02/01/07	(C) Introduced Bill Text Available Electronically				
02/01/07	(S) Referred to Committee	(S) Highways and Transportation			
02/01/07	(S) First Reading				

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
02/01/07	(S) Introduced				
01/30/07	(C) Draft Delivered to Requester				
01/29/07	(C) Draft Ready for Delivery				
01/26/07	(C) Draft in Assembly/Executive Director Review				
01/26/07	(C) Draft in Final Drafter Review				
01/25/07	(C) Draft in Input/Proofing				
01/24/07	(C) Draft to Drafter - Edit Review [JLN]				
01/24/07	(C) Draft in Edit				
01/23/07	(C) Draft Back for Redo				
01/23/07	(C) Draft in Final Drafter Review				
01/23/07	(C) Bill Draft Text Available Electronically				
01/23/07	(C) Draft in Input/Proofing				
01/23/07	(C) Draft to Drafter - Edit Review [JLN]				
01/23/07	(C) Draft in Edit				
01/23/07	(C) Draft in Legal Review				
01/22/07	(C) Draft to Requester for Review				
12/05/06	(C) Draft Request Received				

SENATE BILL NO. 414
INTRODUCED BY J. LASLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE LAWS GOVERNING MOTOR CARRIERS DO NOT APPLY TO THE TRANSPORTATION OF HOUSEHOLD GOODS AND GARBAGE IN THE COMMERCIAL AREAS OF A CITY, TOWN, OR VILLAGE WITH A POPULATION OF LESS THAN 500 PERSONS; AND AMENDING SECTION 69-12-102, MCA."

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President of the Senate

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of _____, 2019.

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MINUTES

MONTANA SENATE 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **CHAIRMAN GERALD PEASE**, on February 8, 2007 at 3:30 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Gerald Pease, Chairman (D)
Sen. Jerry W. Black (R)
Sen. Roy Brown (R)
Sen. John Brueggeman (R)
Sen. Vicki Cocchiarella (D)
Sen. Sam Kitzenberg (D)
Sen. Jesse Laslovich (D)
Sen. Frank Smith (D)
Sen. Donald J. Steinbeisser (R)

Members Excused: None.

Members Absent: None.

Staff Present: Andrew Geiger, Legislative Branch
Lois O'Connor, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	HB 23, 2/2/2007; SB 414, 2/2/2007; SB 415, 2/2/2007
Executive Action:	HB 23, SB 414, SB 303, SB 302, SB 222, SB 298, SB 194

00:01:06

HEARING ON HB 23

Opening Statement by Sponsor:

00:01:42 **REP. CYNTHIA HINER (D), HD 85**, opened the hearing on **HB 23**, Clarify allocation of certain drivers license fees.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony: None.

00:03:03 Lee Heiman, Staff Attorney, Legislative Services
Division (LSD)

Questions from Committee Members and Responses:

Closing by Sponsor:

00:03:33 Rep. Hiner

EXECUTIVE ACTION ON HB 23

00:04:28 **Motion/Vote:** **SEN. BRUEGGEMAN** moved that **HB 23 BE CONCURRED IN**. Motion carried unanimously by voice vote. **SEN. KITZENBERG** voted aye by proxy.

HEARING ON SB 414

Opening Statement by Sponsor:

00:05:46 **SEN. JESSE LASLOVICH (D), SD 43**, opened the hearing on **SB 414**, Clarify application of motor carrier law in certain cities and towns.

[EXHIBIT\(his28a01\)](#)

[EXHIBIT\(his28a02\)](#)

[EXHIBIT\(his28a03\)](#)

Proponents' Testimony:

00:12:38 Gary Spaeth, Montana Solid Waste Contractor
Association and for Spook Stang, Montana Motor Carriers

Association and Alan Stacy, Bekins Transfer and
Storage, Great Falls

EXHIBIT(his28a04)

00:17:53 Gordon Giuglio, Giuglio Disposal Services

00:18:52 Doug Sparrow, City-County Sanitation, Helena

Opponents' Testimony: None.

Informational Testimony:

00:20:44 Greg Jergeson, Chairman, Public Service Commission

Questions from Committee Members and Responses:

00:22:44 Sen. Roy Brown to Sen. Laslovich

00:23:21 Sen. Gerald Pease to Sen. Laslovich

Closing by Sponsor:

00:24:06 Sen. Laslovich

EXECUTIVE ACTION ON SB 414

00:24:30 **Motion/Vote:** SEN. BLACK moved that SB 414 DO PASS.
Motion carried unanimously by voice vote. SEN.
KITZENBERG voted aye by proxy.

Discussion:

00:25:12 Sen. Frank Smith

00:26:18 Break

00:32:43 Reconvene

HEARING ON SB 415

Opening Statement by Sponsor:

00:32:52 SEN. JIM SHOCKLEY (R), SD 45, opened the hearing on SB
415, Revise laws governing motor vehicle insurance and
punishments.

Proponents' Testimony: None.

Opponents' Testimony:

00:36:40 Roger McGlenn, Executive Director, Independent Insurance Agents of Montana (IIAM)

00:44:02 Don Allen, Montana Association of Insurance and Financial Advisors (MAIFA)

Informational Testimony: None.

Questions from Committee Members and Responses:

00:44:55 Sen. Vicki Cocchiarella to Sen. Shockley

Closing by Sponsor:

00:49:08 Sen. Shockley

EXECUTIVE ACTION ON SB 303

00:53:03 Andrew Geiger, Research Analyst, Legislative Services Division (LSD)

00:55:00 Sen. Brown to Mr. Geiger, LSD

00:55:50 **Motion:** SEN. BRUEGGEMAN moved that SB 303 DO PASS.

00:56:10 **Motion:** SEN. BRUEGGEMAN moved that #SB030301.AAG DO PASS. Motion that amendment #SB030301.AAG DO PASS carried 6-3 by voice vote. SEN. PEASE, SEN. BLACK, and SEN. LASLOVICH voted nay.

EXHIBIT(his28a05)

00:57:07 **Motion/Vote:** SEN. COCCHIARELLA moved that SB 303 BE TABLED. Motion failed 4-4 by roll call vote with SEN. BROWN, SEN. BRUEGGEMAN, SEN. KITZENBERG, and SEN. STEINBEISSER voting nay. SEN. BLACK was excused.

00:59:19 SEN. BRUEGGEMAN withdrew the DO PASS motion. No further action was taken.

EXECUTIVE ACTION ON SB 302

01:01:47 **SEN. COCCHIARELLA** moved that SB 302 DO NOT PASS.

Discussion:

01:02:19 Sen. Cocchiarella

01:03:55 Sen. Smith to Sen. Pease

01:05:30 Sen. Brueggeman

01:05:05 Sen. Frank

01:05:49 Sen. Cocchiarella to Sen. Brueggeman

01:07:11 Mr. Geiger, LSD

01:07:28 Sen. Brueggeman

01:08:02 Sen. Pease to Sen. Brueggeman

01:09:03 Sen. Don Steinbeisser to Sen. Brueggeman

01:09:37 Sen. Brueggeman

01:11:27 Sen. Pease

01:11:45 **Vote:** Motion that SB 302 DO NOT PASS failed 3-6 by roll call vote with SEN. COCCHIARELLA, SEN. PEASE, and SEN. SMITH voting aye.

01:12:00 **Substitute Motion/Vote:** SEN. COCCHIARELLA made a substitute motion TO TABLE SB 302. Substitute motion failed 4-5 by roll call vote with SEN. BROWN, SEN. BRUEGGEMAN, SEN. KITZENBERG, SEN. LASLOVICH, and SEN. STEINBEISSER voting NAY.

01:16:27 **Motion/Vote:** SEN. BRUEGGEMAN moved that SB 302 DO PASS. Motion carried 6-3 by roll call vote with SEN. COCCHIARELLA, SEN. PEASE, and SEN. SMITH voting no.

EXECUTIVE ACTION ON SB 222

01:18:24 **Motion/Vote:** SEN. BRUEGGEMAN moved that SB 222 DO PASS. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 298

01:19:31 **Motion:** SEN. SMITH moved that SB 298 DO PASS.

Discussion:

01:20:16 Sen. Brown to Mr. Geiger, LSD

01:21:32 Mr. Geiger, LSD

01:22:37 Sen. Pease to Mr. Geiger, LSD

01:22:56 **Motion:** SEN. STEINBEISSER moved that #SB029801.AAG DO PASS.

EXHIBIT(his28a06)

Discussion:

01:23:17 Sen. Laslovich

01:23:57 **Vote:** Motion #SB029801.AAG failed unanimously by voice vote.

01:24:32 **Motion/Vote:** SEN. LASLOVICH moved that SB 298 BE TABLED. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 194

01:25:10 **Motion:** SEN. KITZENBERG moved to RECONSIDER THE MOTION on SB 194.

Discussion:

01:26:29 Sen. Brueggeman

01:27:27 Sen. Kitzenberg

01:29:15 **Vote:** Motion to RECONSIDER THE MOTION on SB 194 failed 3-6 by roll call vote with SEN. KITZENBERG, SEN. LASLOVICH, and SEN. SMITH voting aye.

Discussion:

01:32:47 Sen. Pease

ADJOURNMENT

Adjournment: 5:10 P.M.

SEN. GERALD PEASE, Chairman

LOIS O'CONNOR, Secretary

GP/lo

Additional Exhibits:

EXHIBIT ([his28aad.pdf](#))

HIGHWAYS

DATE 2-8-07

[illegible]



SENATE STANDING COMMITTEE REPORT

February 9, 2007

Page 1 of 1

Mr. President:

We, your committee on **Highways and Transportation** recommend that **House Bill 23** (third reading copy -- blue) be concurred in.

Signed: Gerald Pease
Senator Gerald Pease, Chair

To be carried by Senator Jesse Laslovich

- END -

Committee Vote:

Yes 9, No 0

Fiscal Note Required _____

KJ

290920SC.spb



SENATE STANDING COMMITTEE REPORT

February 9, 2007

Page 1 of 1

Mr. President:

We, your committee on **Highways and Transportation** recommend that **Senate Bill 414** (first reading copy -- white) **do pass**.

Signed: *Gerald Pease*
Senator Gerald Pease, Chair

- END -

Committee Vote:

Yes 9, No 0

Fiscal Note Required — *KJ*

290921SC.spb



SENATE STANDING COMMITTEE REPORT

February 9, 2007

Page 1 of 1

Mr. President:

We, your committee on **Highways and Transportation** recommend that **Senate Bill 302** (first reading copy -- white) **do pass**.

Signed: *Gerald Pease*
Senator Gerald Pease, Chair

- END -

Committee Vote:

Yes 6, No 3

Fiscal Note Required *KF*

290922SC.spb



SENATE STANDING COMMITTEE REPORT

February 9, 2007

Page 1 of 1

Mr. President:

We, your committee on **Highways and Transportation** recommend that **Senate Bill 222** (first reading copy -- white) do pass.

Signed: _____

Gerald Pease

Senator Gerald Pease, Chair

- END -

Committee Vote:

Yes 9, No 0

Fiscal Note Required _____

KJ

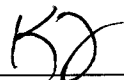
290923SC.spb

COMMITTEE FILE COPY

TABLED BILL

The **SENATE HIGHWAYS AND TRANSPORTATION COMMITTEE** TABLED SB 298, by motion, on
Thursday, February 8, 2007.


(For the Committee)


(Secretary of the Senate)

(Time) 1:29 (Date)

February 9, 2007

Lois A. O'Connor, Secretary

Phone: 444-4772

ROLL CALL VOTE

failed 3-6

NAME	AYE	NO
SEN. JERRY BLACK (R)		✓
SEN. ROY BROWN (R)		✓
SEN. JOHN BRUEGGEMAN (R)		✓
SEN. VICKI COCCHIARELLA (D)	✓	
SEN. SAM KITZENBERG (D)		✓
SEN. JESSE LASLOVICH (D)		✓
SEN. FRANK SMITH (D)	✓	
SEN. DONALD STEINBEISSER (R)		✓
SEN. GERALD PEASE (D) - CHAIRMAN	✓	
	3	6

MONTANA STATE SENATE
2007 LEGISLATURE

HIGHWAYS AND TRANSPORTATION

ROLL CALL VOTE

DATE 2-8-07 BILL NO. SB-302 NUMBER 8

MOTION: TABLE

failed 4-5

NAME	AYE	NO
SEN. JERRY BLACK (R)	✓	
SEN. ROY BROWN (R)		✓
SEN. JOHN BRUEGGEMAN (R)		✓
SEN. VICKI COCCHIARELLA (D)	✓	
SEN. SAM KITZENBERG (D)		✓
SEN. JESSE LASLOVICH (D)		✓
SEN. FRANK SMITH (D)	✓	
SEN. DONALD STEINBEISSER (R)		✓
SEN. GERALD PEASE (D) - CHAIRMAN	✓	
	4	5

HIGHWAYS AND TRANSPORTATION

DATE 2-8-07 BILL NO. SB-302 NUMBER 3

Do Pass

Passed 6-3

[illegible]

MONTANA STATE SENATE
2007 LEGISLATURE

HIGHWAYS AND TRANSPORTATION

ROLL CALL VOTE

DATE 2-8-07 BILL NO. SB-194 NUMBER _____
MOTION: Reconsider Action
failed 3-6

NAME	AYE	NO
SEN. JERRY BLACK (R)		✓
SEN. ROY BROWN (R)		✓
SEN. JOHN BRUEGGEMAN (R)		✓
SEN. VICKI COCCHIARELLA (D)		✓
SEN. SAM KITZENBERG (D)	✓	
SEN. JESSE LASLOVICH (D)	✓	
SEN. FRANK SMITH (D)	✓	
SEN. DONALD STEINBEISSER (R)		✓
SEN. GERALD PEASE (D) - CHAIRMAN		✓
	3	6

SENATE PROXY FORM

According to Senate Rule 30-70 (13) (f) , a committee member may vote by proxy using a standard form.

PROXY VOTE

I, the undersigned, hereby authorize Senator

Pease

to vote my proxy on any issue before the Senate

Highways

Committee

held on

February 8, 2007

, 2007.

yes - HB-23
SB - SB-414

Sam Kutsher
SENATOR
STATE OF MONTANA

HIGHWAYS VISITOR REGISTER

BILLS BEING HEARD TODAY SB-414; SB-415; HB-23

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill # SB0302

Title: Remove daytime speed limit restriction on Highway 93

Primary Sponsor: Barkus, Gregory D

Status: As Introduced

- | | | |
|---|--|--|
| ☐ Significant Local Gov Impact | ☐ Needs to be included in HB 2 | ☐ Technical Concerns |
| ☐ Included in the Executive Budget | ☐ Significant Long-Term Impacts | ☐ Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$4,525	\$0	\$0	\$0
Revenue:				
General Fund	(\$2,500)	(\$2,500)	(\$2,500)	(\$2,500)
State Special Revenue	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance	<u>(\$2,500)</u>	<u>(\$2,500)</u>	<u>(\$2,500)</u>	<u>(\$2,500)</u>

Description of Fiscal Impact: The impact would be related to the cost of labor, materials, and equipment to change the current signs to reflect the new speed limit signs that this bill affects. There would also be a minor impact to fine revenue from citations issued by the Montana Highway Patrol.

FISCAL ANALYSIS

Assumptions:

Department of Transportation

1. Sign replacement will be required at 56 locations along US Highway 93.
2. The estimated cost for the sign replacement is \$4,525. Costs include materials, equipment rental from the department's internal equipment pool, and staff labor for installation.

Department of Justice – Montana Highway Patrol (MHP)

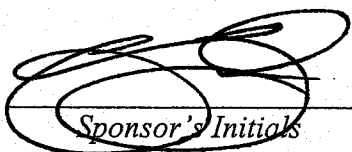
3. In 2005, there were 999 convictions for speed violations on the affected area of US Highway 93.
4. Total revenue from these citations was approximately \$25,000 for an average of \$25 per citation.
5. Revenues from MHP citations are split 50/50 between the state general fund and the county in which the citation was issued, so the state general fund received \$12,500 from these citations or \$12.50 per citation.

Fiscal Note Request – As Introduced

(continued)

6. Changing the speed limit would cause an anticipated drop in the average citation to \$20, or \$10 to the state general fund – a reduction of \$2.50 per citation.
7. A reduction of \$2.50 per citation times 999 citations would be an estimated reduction in general fund fine revenue of approximately \$2,500.

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Fiscal Impact:</u>				
Department of Transportation				
<u>Expenditures:</u>				
Personal Services	\$2,578	\$0	\$0	\$0
Operating Expenses	\$1,946	\$0	\$0	\$0
TOTAL Expenditures	\$4,525	\$0	\$0	\$0
<u>Funding of Expenditures:</u>				
State Special Revenue (02)	\$4,525	\$0	\$0	\$0
Department of Justice - Montana Highway Patrol				
<u>Revenues:</u>				
General Fund	(\$2,500)	(\$2,500)	(\$2,500)	(\$2,500)
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$2,500)	(\$2,500)	(\$2,500)	(\$2,500)
State Special Revenue (02)	(\$4,525)	\$0	\$0	\$0


Sponsor's Initials

4/1/07
Date


Budget Director's Initials

11/31/07
Date

EXHIBIT NO. 4

DATE 2-8-07

BILL NO. SB-414

BEKINS

Agent

Stacey Transfer & Storage
P. O. Box 2626
Great Falls, MT 59403
(406) 452-9555

February 7, 2007

Honorable Senators
Senate Highways and Transportation Committee
State Capitol
Helena, MT

Dear Senators:

I support SB414 which corrects the intent of legislation passed and approved in the 1995 legislative session (SB378, 1995).

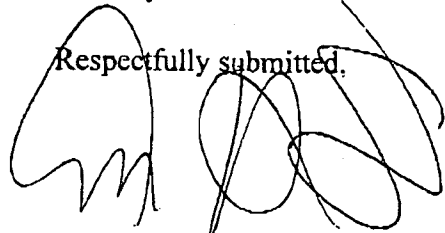
Non passage of this bill would in effect deregulate the transportation of household goods in the State of Montana.

In 1995, after much debate, it was decided Household Goods Transportation should remain regulated to protect individual consumers.

Due to the infrequency of private individuals using moving services, they are generally unknowledgeable about the good, fair and legal business practices of our industry. If not regulated, our industry would be open to unscrupulous operators who would take advantage of their customers as happened in states that deregulated movers.

We have a sound and fair moving system in Montana. Please support SB414 so that it remains that way.

Respectfully submitted,



Alan H. Stacey
Managing Partner

From: Petesch, Greg**Sent:** Friday, January 05, 2007 2:26 PM**To:** McHugh, Robin**Subject:** RE: Question re: Code Commissioner Bill

I could fix this in a code commissioner bill. However, the new procedure for the code commissioner bill was adopted so that the bill would not have to be amended and reprinted -- a substantial cost saving. I could include this in the 2009 cc bill or we could try to find a bill to fix it in this session.

From: McHugh, Robin**Sent:** Friday, January 05, 2007 2:13 PM**To:** Petesch, Greg**Subject:** Question re: Code Commissioner Bill

Greg: I have been asked by persons outside the Commission to inquire whether a certain matter could be addressed in the Code Commissioner Bill. The full story is contained in the attached letter, but to try to save you some time I will summarize. In 1995 a section of the motor carrier statutes was opened for amendment. As part of that process it is my conclusion that the normal cleanup editing that is done when a section is opened inadvertently resulted in a significant and substantive change to the section; a change, so far as I can tell, that was not noticed by anybody until the PSC got the letter from Mr. Towle. So the question is, when cleanup editing results in substantive change, can that be corrected in the Code Commissioner Bill? Or does another bill have to be introduced to make the change? By the way, Lee Heiman was the LSD lawyer I talked to when researching the letter (referred to in the letter). Thanks for your help. Robin McHugh

October 26, 2006

William H. Towle
Attorney at Law
10449 Upland Trail
Missoula, MT 59804

Re: Commercial Area Exemption

Dear Ms. Towle:

This will respond to your letter of August 23, 2006 requesting "an informal opinion as to the geographic scope of the commercial zone exemption in 69-12-102(c) as it relates to the for-hire transportation of household goods in the City of Missoula." I apologize for the tardy response.

Section 69-12-102(1)(c), MCA, reads:

This chapter does not affect: the transportation of household goods and garbage by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas of a city, town, or village, as determined by the commission[.]

This section was amended to its present form in the 1995 session. Before 1995 the section read as follows:

This chapter does not affect: the transportation of property by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas thereof, as determined by the commission[.]

In legislative format, the changes in SB 378 in 1995 were as follows:

This chapter does not affect: the transportation of ~~property~~ household goods and garbage by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States

William H. Towle letter
October 26, 2006
Page 2

census or in the commercial areas ~~thereof~~ of a city, town, or village, as determined by the commission[.]

As you can see, the 1995 amendments to § 69-12-102(c) changed the meaning of that section significantly. Prior to 1995 that section created an exemption for certain transportation in cities (towns or villages) of less than 500, or in the commercial areas of those cities. By rule (ARM 38.3.106) the Commission implemented that exemption as follows:

For the purposes of applying the exemption from the Montana Motor Carrier Act contained at 69-12-102[c], MCA, the term "commercial areas" shall include all points within a distance not exceeding two miles from the post office of any city, town or village with a population of less than 500 persons, according to the latest United States census.

After 1995 § 69-12-102(c) creates a certain exemption in cities of less than 500, but also in the commercial areas of any city, as determined by the Commission. This post-1995 exemption has never been implemented by the Commission. As you can see, ARM 38.3.106, adopted in 1972 and never amended, applies to the pre-1995 exemption. The Commission has not undertaken a rulemaking to determine the size of commercial areas in cities with a population of greater than 500.

The Commission has not implemented the post-1995 exemption because it was not aware until now that the 1995 legislature made the significant change described above. Commission staff continues to enforce the pre-1995 exemption. Such enforcement has not brought to the Commission's or the Commission staff's attention the significant change to the exemption section made in 1995.

Based on the fact, as described, that the Commission was not aware of the significance of the 1995 amendment until it received your letter; and based on the fact that Commission staff actively followed the bill (Senate Bill 378) that amended § 69-12-102(c) and has no recollection of any committee or floor discussion of the change to that section at issue; and given that there is no discussion of the change at issue in the legislative history of SB 378; and based on my conversation with counsel for Legislative Services Division (LSD), it is my conclusion that the expansion of the exemption was inadvertent. LSD has a policy of cleaning up and improving the language of the Montana Code as sections are opened up by the legislature for amendment. (Obviously, that policy does not include changing the meaning of the law.) In this case, I think that in trying to remove the word "thereof" the bill drafter failed to complete the reference to cities of less than 500, and thereby changed the meaning significantly, as discussed. Section 69-12-102(c) was opened by the 1995 legislature to substitute "household goods and garbage" for "property." This change was integral to the purpose of SB 378, is referenced in the SB 378 legislative history, and is recalled by Commission staff.

William H. Towle letter
October 26, 2006
Page 3

The Commission is aware that it cannot fail or refuse to implement the plain meaning of a statute based on its conclusion that the legislature did not mean what the statute plainly says. However, given that the legislature meets in regular session in two months, the Commission will not act now to change its implementation of § 69-12-102(c). The 2007 legislature can again consider that section. If the legislature makes no change to the section then the Commission will accordingly begin a rulemaking to define the scope of the commercial area exemption, pursuant to present law. If the legislature changes the section, then the Commission will implement the section consistent with legislative direction.

I hope this has been responsive. Please contact me with questions or comments.

Sincerely,

Robin A. McHugh
Administrator, Legal Division

RAM/cj

Cc: Commissioners
Wayne Budt, Administrator, PSC Transportation/Centralized Services Division

From: Charles Swysgood
Sent: Wednesday, January 31, 2007 8:10 PM
To: sweingartner@rmsmanagement.com
Subject: Fw: SB 378 1995 Session

----- Original Message -----

From: Charles Swysgood
To: JESSELAZ@YAHOO.COM
Sent: Wednesday, January 31, 2007 8:05 PM
Subject: SB 378 1995 Session

Senator Laslovich, I understand that you are carrying a bill to address a drafters edit mistake in Senate Bill 378, which I sponsored in the 1995 legislative session. It was the intent of SB 378 to eliminate State Regulation of certain motor carriers. The bill did not deregulate the transportation of household goods or garbage by motor carrier, except for a city, town, or village with a population of less than 500 persons and the commercial areas of those cities, towns, and villages of less than 500 population. When the word " thereof " was stricken from 69-12-102(1)(c), that expanded the exemption of commercial areas to all cities, towns, and villages and that was not the intent of my bill. The word " thereof " needs to be reinserted in 69-12-102(1)(c) and then the bill will be as intended when we passed it in the 1995 session.

Thank you very much for your time, and you may use my comments if you like when you present your bill to the committee's.

Chuck Swysgood
Dillon, Montana

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TRANSPORTATION

Call to Order: By Chairman Jon Sonju, on March 30, 2007 at 3:30 P.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Jon Sonju, Chairman (R)
Rep. Kevin T. Furey, Vice Chairman (D)
Rep. Bill Nooney, Vice Chairman (R)
Rep. Elsie Arntzen (R)
Rep. Edward Hilbert (R)
Rep. Gary MacLaren (R)
Rep. Bruce Malcolm (R)
Rep. Bill Wilson (D)

Members Excused: Rep. Deborah Kottel (D)
Rep. Brady Wiseman (D)

Members Absent: None.

Staff Present: Katie Butcher, Committee Secretary
Andrew Geiger, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing: SB 414, SB 422, HB 840
Executive Action: SB 422, SB 251, SB 222
SB 414, HB 840, SB 122
SB 463

HEARING ON SB 422

Opening Statement by Sponsor:

00:00:51 Sen. Kelly Gebhardt (R), SD 23, opened the hearing on SB 422, Revise law on wrappers on logging trucks and trailers.

Proponents' Testimony:

00:01:57 Jason Todhunter, Montana Logging Association
[EXHIBIT](#)(trh68a01)

00:06:04 Barry (Spook) Stang, Montana Motor Carriers Association (MMCA)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:06:38 Rep. Hilbert
00:06:43 Mr. Todhunter
00:07:21 Rep. Sonju
00:07:30 Mr. Todhunter
00:08:37 Rep. Hilbert

Closing by Sponsor:

00:08:57 Rep. Gebhardt

EXECUTIVE ACTION ON SB 422

00:10:31 **Motion:** Rep. Nooney moved that **SB 422 BE CONCURRED IN.**

Discussion:

00:10:48 Rep. Arntzen
00:11:16 Rep. Sonju

00:11:39 **Vote:** Motion carried unanimously by voice vote. Rep. Wiseman and Rep. Kottel voted by proxy. Rep. Vincent will carry the bill on the house floor.

EXECUTIVE ACTION ON SB 251

00:12:29 **Motion:** Rep. Nooney moved that **SB 251 BE CONCURRED IN.**

Discussion:

00:12:44 Andrew Geiger

00:13:38 Rep. Arntzen

00:14:18 **Vote:** Motion carried unanimously by voice vote.
Rep. Kottel and Rep. Wiseman voted by proxy. Rep.
Arntzen will carry the bill on the house floor.

EXECUTIVE ACTION ON SB 222

00:15:09 **Motion:** Rep. Nooney moved that **SB 222 BE CONCURRED IN.**

00:15:35 **Motion:** Rep. Nooney moved that **SB 222 BE AMENDED.**
EXHIBIT(trh68a02)

Discussion:

00:16:03 Andrew Geiger

00:17:04 Rep. Furey

00:17:25 Rep. Sonju

00:17:31 Andrew Geiger

00:17:48 Rep. Hilbert

00:17:58 **Vote:** Motion carried unanimously by voice vote.
Rep. Wiseman and Rep. Kottel voted by proxy.

00:18:18 **Motion:** Rep. Nooney moved that **SB 222 BE CONCURRED IN**
AS AMENDED.

Discussion:

00:18:26 Rep. Malcolm

00:18:51 Rep. Hilbert

00:19:40 Andrew Geiger

00:20:27 Rep. Malcolm

00:20:45 Rep. Arntzen

00:20:55 Rep. Nooney

00:21:14 Rep. Arntzen

00:21:29 **Vote:** Motion carried 9-1 by voice vote with Rep. Sonju
voting no. Rep. Wiseman and Rep. Kottel voted by
proxy. Rep. Wiseman will carry the bill on the house
floor.

HEARING ON SB 414

Opening Statement by Sponsor:

00:23:17 Sen. Jesse Laslovich (D), SD 43, opened the hearing on SB 414, Clarify application of motor carrier law in certain cities and towns.

[EXHIBIT\(trh68a03\)](#)

[EXHIBIT\(trh68a04\)](#)

[EXHIBIT\(trh68a05\)](#)

Proponents' Testimony:

00:29:46 Doug Sparrow, City, County Sanitation
00:31:24 Gordon Giulio, Lolo Disposal Service
00:32:46 Roger Bridgeford, Montana Waste Systems
00:33:32 Chad Bauer, Allied Waste
00:33:42 Gary Spaeth, Montana Solid Waste Contractors Association
00:34:59 Barry (Spook) Stang, MMCA

Opponents' Testimony: None

Informational Testimony:

00:35:50 Robin McHugh, Public Service Commission

Questions from Committee Members and Responses:

00:36:17 Rep. MacLaren
00:36:27 Sen. Laslovich

Closing by Sponsor:

00:37:10 Sen. Laslovich
Rep. Wiseman arrived

HEARING ON HB 840

Opening Statement by Sponsor:

00:38:17 Rep. Edward Hilbert (R), HD 38, opened the hearing on HB 840, Revise license plate laws.

Proponents' Testimony:

00:39:57 Cory Swanson, Citizens for Balanced Use
00:46:03 Rhonda Wiggers, Montana Snowmobile Association

Opponents' Testimony: None

Informational Testimony:

00:49:33 Dean Roberts, Motor Vehicle Division (MVD)

Questions from Committee Members and Responses:

00:56:05 Rep. Sonju

00:56:09 Mr. Roberts, MVD

00:56:31 Rep. Arntzen

00:57:00 Rep. Hilbert

00:57:45 Rep. Nooney

00:58:03 Rep. Hilbert

Closing by Sponsor:

00:58:26 Rep. Hilbert

EXECUTIVE ACTION ON SB 414

01:00:08 **Motion/Vote:** Rep. Nooney moved that **SB 414 BE CONCURRED IN.** Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 840

01:01:30 **Motion:** Rep. Hilbert moved that **HB 840 DO PASS.**

Discussion:

01:01:44 Rep. MacLaren

01:01:53 Rep. Hilbert

01:02:10 **Vote:** Motion carried unanimously by voice vote. Rep. Kottel voted by proxy.

EXECUTIVE ACTION ON SB 122

01:02:52 **Motion:** Rep. Nooney moved that **SB 122 BE CONCURRED IN.**

01:03:08 **Substitute Motion/Vote:** Rep. MacLaren made a substitute motion that **SB 122 BE TABLED.** Substitute motion carried 6-4 by roll call vote with Rep. Furey, Rep. Kottel, Rep. Wilson, and Rep. Wiseman voting no. Rep. Kottel and Rep. Wiseman voted by proxy.

EXECUTIVE ACTION ON SB 463

01:05:00 **Motion:** Rep. Nooney moved that **SB 463 BE CONCURRED IN.**

01:05:22 **Substitute Motion/Vote:** Rep. Nooney moved that **SB 463 BE TABLED.** Motion failed 5-5 by roll call vote with Rep. Arntzen, Rep. Hilbert, Rep. MacLaren, Rep. Nooney, and Rep. Sonju voting aye. Rep. Kottel and Rep. Wiseman voted by proxy.

Discussion:

01:07:42 Rep. Malcolm

01:08:26 Rep. Nooney

01:08:40 Rep. Sonju

01:10:05 Rep. MacLaren

01:10:41 Rep. Furey

01:11:24 Rep. Sonju

01:11:34 **Vote:** Motion failed 5-5 by roll call vote with Rep. Furey, Rep. Kottel, Rep. Malcolm, Rep. Wilson, and Rep. Wiseman voting aye. Rep. Kottel and Rep. Wiseman voted by proxy.

ADJOURNMENT

01:12:07 Adjournment

REP. JON SONJU, Chairman

KATIE BUTCHER, Secretary

JS/kb

Additional Exhibits:

EXHIBIT ([trh68aad.pdf](#))

HOUSE OF REPRESENTATIVES
Roll Call
TRANSPORTATION COMMITTEE

DATE: 3-30-07

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. JON SONJU, CHAIR	X	
REP. BILL NOONEY, VICE CHAIR	X	
REP. KEVIN FUREY, VICE CHAIR	X	
REP. ELSIE ARNTZEN	X	
REP. EDWARD HILBERT	X	
REP. DEBORAH KOTTEL		X
REP. GARY MACLAREN	X	
REP. BRUCE MALCOLM	X	
REP. BILL WILSON	X	
REP. BRADY WISEMAN		X



HOUSE STANDING COMMITTEE REPORT

March 30, 2007

Page 1 of 1

Mr. Speaker:

We, your committee on **Transportation** recommend that **Senate Bill 422** (third reading copy -- blue) be concurred in.

Signed: _____

Representative Jon Sonju, Chair

To be carried by Representative Chas Vincent

- END -

Committee Vote:

Yes 10, No 0

Fiscal Note Required ____

MP
3/30

681656SC.hjd



HOUSE STANDING COMMITTEE REPORT

March 30, 2007

Page 1 of 1

Mr. Speaker:

We, your committee on **Transportation** recommend that **Senate Bill 251** (third reading copy -- blue) be concurred in.

Signed: _____

Representative Jon Sonju, Chair

To be carried by Representative Elsie Arntzen

- END -

Committee Vote:

Yes 10, No 0

Fiscal Note Required _____

4/1/07
3/30

681657SC.hjd



Katie
Em 173

HOUSE STANDING COMMITTEE REPORT

March 30, 2007

Page 1 of 1

Mr. Speaker:

We, your committee on **Transportation** recommend that **Senate Bill 222** (third reading copy -- blue) be concurred in as amended.

Signed: _____

A handwritten signature in black ink, appearing to read "Jon Sonju".

Representative Jon Sonju, Chair

To be carried by Representative Brady Wiseman

And, that such amendments read:

1. Title, line 5.

Following: "LIMIT"

Insert: "IN CERTAIN SITUATIONS"

2. Page 2, line 3.

Following: "greater."

Insert: "when driving in a lane that is directly next to the emergency vehicle or police vehicle,"

3. Page 2, line 3.

Strike: "i."

Insert: "reduce the vehicle's speed by at least 20 miles per hour below the posted speed limit."

4. Page 2.

Strike: line 4 through line 11

- END -

Committee Vote:

Yes 9, No 1

Fiscal Note Required ____

681717SC.hjd

ibn
3/31/07



HOUSE STANDING COMMITTEE REPORT

March 30, 2007

Page 1 of 1

Mr. Speaker:

We, your committee on **Transportation** recommend that **Senate Bill 414** (third reading copy -- blue) be concurred in.

Signed: _____

Representative Jon Sonju, Chair

To be carried by Representative Kevin Furey

- END -

Committee Vote:

Yes 10, No 0

Fiscal Note Required ____

MP
3/30
681658SC.hjd



HOUSE STANDING COMMITTEE REPORT

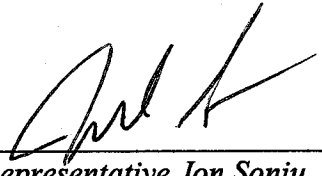
March 30, 2007

Page 1 of 1

Mr. Speaker:

We, your committee on **Transportation** recommend that **House Bill 840** (first reading copy -- white) **do pass**.

Signed: _____

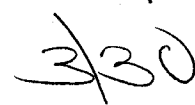

Representative Jon Sonju, Chair

- END -

Committee Vote:

Yes 10, No 0

Fiscal Note Required _____

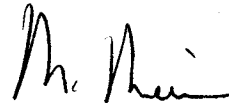
681659SC.hjd

COMMITTEE FILE COPY

TABLED BILL

The **HOUSE TRANSPORTATION COMMITTEE** TABLED **SB 122**, by motion, on **Friday, March 30, 2007**.

(For the Committee)



(Chief Clerk of the House)

5:10 / 3/30/07
(Time) (Date)

March 30, 2007

Katie Butcher, Secretary

Phone: 406-444-4745

HOUSE OF REPRESENTATIVES
Roll Call Vote
TRANSPORTATION COMMITTEE

DATE 3-30 BILL NO SB 122
MOTION: TO Table SB 122

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIR , REP. BILL NOONEY	X		
VICE CHAIR, REP. KEVIN FUREY		X	
REP. ELSIE ARNTZEN	X		
REP. BRADY WISEMAN		X	
REP. DEBORAH KOTTEL		X	X
REP. EDWARD HILBERT	X		X
REP. GARY MACLAREN	X		
REP. BILL WILSON		X	
REP. BRUCE MALCOLM	X		
CHAIRMAN REP. JON SONJU	X		

6-4

HOUSE OF REPRESENTATIVES
Roll Call Vote
TRANSPORTATION COMMITTEE

DATE 3 30
BILL NO SB 463
MOTION: Table SB 463

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIR, REP. BILL NOONEY	X		
VICE CHAIR, REP. KEVIN FUREY		X	
REP. ELSIE ARNTZEN	X		
REP. BRADY WISEMAN		X	
REP. DEBORAH KOTTEL		X	X
REP. EDWARD HILBERT	X		
REP. GARY MACLAREN	X		
REP. BILL WILSON		X	
REP. BRUCE MALCOLM		X	
CHAIRMAN REP. JON SONJU	X		

5 - 5

HOUSE OF REPRESENTATIVES
Roll Call Vote
TRANSPORTATION COMMITTEE

DATE 3.30 BILL NO SB463 MOTION: DO PASS

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIR, REP. BILL NOONEY		X	
VICE CHAIR, REP. KEVIN FUREY	X		
REP. ELSIE ARNTZEN		X	
REP. BRADY WISEMAN	X		
REP. DEBORAH KOTTEL	X		X
REP. EDWARD HILBERT		X	
REP. GARY MACLAREN		X	
REP. BILL WILSON	X		
REP. BRUCE MALCOLM	X		
CHAIRMAN REP. JON SONJU		X	

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**Montana House of Representatives
Visitors' Register**

TRANSPORTATION COMMITTEE

Date 3/30/07

Bill Nos. _____ Sponsor(s) _____
 Bill Nos. _____ Sponsor(s) _____
 Bill Nos. _____ Sponsor(s) _____
 Bill Nos. _____ Sponsor(s) _____

PLEASE PRINT

Name	Representing	Bill No.	Support	Oppose	Info.
Roger Bridgesford	Montana Waste Sys	SB414	✓		
Gordon E. Haulio	Haulio Asphal Ser	SB ⁴¹⁴ 422	✓		
CHAD Bauer	Allied Waste	SB414	✓		
Robin McHugh	PSC	SB414			✓
Dony Sparrow	City County Sanitation	SB414	✓		
Cory Swanson	Citizens for Balanced Use	HB 840	X		
Ronda Wiggers	Mt City Trss	HB 840			K
Ronda Wiggers	Mt Snowmobile Assoc	HB 840	X		
Gary Spaeth	MT Solid Waste Contr	SB 414	X		
Barry Stanch	MCA	SB 414 SB 422	X		
Jason Todhunter	MLA	SB 422	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

----- Original Message -----

From: Charles Swysgood

To: JESSELAZ@YAHOO.COM

Sent: Wednesday, January 31, 2007 8:05 PM

Subject: SB 378 1995 Session

Senator Laslovich, I understand that you are carrying a bill to address a drafters edit mistake in Senate Bill 378, which I sponsored in the 1995 legislative session. It was the intent of SB 378 to eliminate State Regulation of certain motor carriers. The bill did not deregulate the transportation of household goods or garbage by motor carrier, except for a city, town, or village with a population of less than 500 persons and the commercial areas of those cities, towns, and villages of less than 500 population. When the word " thereof " was stricken from 69-12-102(1)(c), that expanded the exemption of commercial areas to all cities, towns, and villages and that was not the intent of my bill. The word " thereof " needs to be reinserted in 69-12-102(1)(c) and then the bill will be as intended when we passed it in the 1995 session.

Thank you very much for your time, and you may use my comments if you like when you present your bill to the committee's.

Chuck Swysgood
Dillon, Montana

EXHIBIT 4
DATE 3-30-07
SB SB 414**Sue A. Weingartner**

From: McHugh, Robin [rmchugh@mt.gov]
Sent: Friday, January 05, 2007 4:55 PM
To: suew@mteyes.com
Subject: FW: Question re: Code Commissioner Bill

Here you go.

From: Petesch, Greg
Sent: Friday, January 05, 2007 2:26 PM
To: McHugh, Robin
Subject: RE: Question re: Code Commissioner Bill

I could fix this in a code commissioner bill. However, the new procedure for the code commissioner bill was adopted so that the bill would not have to be amended and reprinted -- a substantial cost saving. I could include this in the 2009 cc bill or we could try to find a bill to fix it in this session.

From: McHugh, Robin
Sent: Friday, January 05, 2007 2:13 PM
To: Petesch, Greg
Subject: Question re: Code Commissioner Bill

Greg: I have been asked by persons outside the Commission to inquire whether a certain matter could be addressed in the Code Commissioner Bill. The full story is contained in the attached letter, but to try to save you some time I will summarize. In 1995 a section of the motor carrier statutes was opened for amendment. As part of that process it is my conclusion that the normal cleanup editing that is done when a section is opened inadvertently resulted in a significant and substantive change to the section; a change, so far as I can tell, that was not noticed by anybody until the PSC got the letter from Mr. Towle. So the question is, when cleanup editing results in substantive change, can that be corrected in the Code Commissioner Bill? Or does another bill have to be introduced to make the change? By the way, Lee Heiman was the LSD lawyer I talked to when researching the letter (referred to in the letter). Thanks for your help. Hope you are surviving the first part of the storm. Robin McHugh

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Version: 7.5.432 / Virus Database: 268.16.6/617 - Release Date: 1/5/2007 11:11 AM

October 26, 2006

William H. Towle
Attorney at Law
10449 Upland Trail
Missoula, MT 59804

Re: Commercial Area Exemption

Dear Ms. Towle:

This will respond to your letter of August 23, 2006 requesting "an informal opinion as to the geographic scope of the commercial zone exemption in 69-12-102(c) as it relates to the for-hire transportation of household goods in the City of Missoula." I apologize for the tardy response.

Section 69-12-102(1)(c), MCA, reads:

This chapter does not affect: the transportation of household goods and garbage by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas of a city, town, or village, as determined by the commission_[.]

This section was amended to its present form in the 1995 session. Before 1995 the section read as follows:

This chapter does not affect: the transportation of property by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas thereof, as determined by the commission_[.]

In legislative format, the changes in SB 378 in 1995 were as follows:

This chapter does not affect: the transportation of ~~property~~ household goods and garbage by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States

William H. Towle letter
October 26, 2006
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census or in the commercial areas thereof of a city, town, or village, as determined by the commission_[1]

As you can see, the 1995 amendments to § 69-12-102(c) changed the meaning of that section significantly. Prior to 1995 that section created an exemption for certain transportation in cities (towns or villages) of less than 500, or in the commercial areas of those cities. By rule (ARM 38.3.106) the Commission implemented that exemption as follows:

For the purposes of applying the exemption from the Montana Motor Carrier Act contained at 69-12-102[c], MCA, the term "commercial areas" shall include all points within a distance not exceeding two miles from the post office of any city, town or village with a population of less than 500 persons, according to the latest United States census.

After 1995 § 69-12-102(c) creates a certain exemption in cities of less than 500, but also in the commercial areas of any city, as determined by the Commission. This post-1995 exemption has never been implemented by the Commission. As you can see, ARM 38.3.106, adopted in 1972 and never amended, applies to the pre-1995 exemption. The Commission has not undertaken a rulemaking to determine the size of commercial areas in cities with a population of greater than 500.

The Commission has not implemented the post-1995 exemption because it was not aware until now that the 1995 legislature made the significant change described above. Commission staff continues to enforce the pre-1995 exemption. Such enforcement has not brought to the Commission's or the Commission staff's attention the significant change to the exemption section made in 1995.

Based on the fact, as described, that the Commission was not aware of the significance of the 1995 amendment until it received your letter; and based on the fact that Commission staff actively followed the bill (Senate Bill 378) that amended § 69-12-102(c) and has no recollection of any committee or floor discussion of the change to that section at issue; and given that there is no discussion of the change at issue in the legislative history of SB 378; and based on my conversation with counsel for Legislative Services Division (LSD), it is my conclusion that the expansion of the exemption was inadvertent. LSD has a policy of cleaning up and improving the language of the Montana Code as sections are opened up by the legislature for amendment. (Obviously, that policy does not include changing the meaning of the law.) In this case, I think that in trying to remove the word "thereof" the bill drafter failed to complete the reference to cities of less than 500, and thereby changed the meaning significantly, as discussed. Section 69-12-102(c) was opened by the 1995 legislature to substitute "household goods and garbage" for "property." This change was integral to the purpose of SB 378, is referenced in the SB 378 legislative history, and is recalled by Commission staff.

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October 26, 2006
Page 3

The Commission is aware that it cannot fail or refuse to implement the plain meaning of a statute based on its conclusion that the legislature did not mean what the statute plainly says. However, given that the legislature meets in regular session in two months, the Commission will not act now to change its implementation of § 69-12-102(c). The 2007 legislature can again consider that section. If the legislature makes no change to the section then the Commission will accordingly begin a rulemaking to define the scope of the commercial area exemption, pursuant to present law. If the legislature changes the section, then the Commission will implement the section consistent with legislative direction.

I hope this has been responsive. Please contact me with questions or comments.

Sincerely,

Robin A. McHugh
Administrator, Legal Division

RAM/cj

Cc: Commissioners
Wayne Budt, Administrator, PSC Transportation/Centralized Services Division